

REMARKS

Upon entry of the present amendment, claims 144, 156-168, and 170-210 will be pending. Claims 144, 159, 172, 178, 180, 184-187, 192-195, 200-203, 206, 207, 209, and 210 have been amended accordingly to include references to the appropriate hybridoma deposit accession numbers. Support for amended claims can be found in the specification as filed, e.g., at page 19 in Table 1, and at page 30, lines 15-27. The specification has been amended to include sequence identifiers. Applicant submits that no new matter has been added.

Corrected Terminal Disclaimer

Applicant submits herewith a corrected Terminal Disclaimer (regarding U.S. Patent No. 6,107,090) originally filed on February 17, 2004, that now refers to the proper date of the assignment. The date of said assignment has been corrected from June 16, 1997, to September 16, 1997.

Supplemental Information Disclosure Statement

Applicant submits herewith a Supplemental Information Disclosure Statement with references. The references were cited by a foreign patent office in a corresponding application. Consideration of all listed references is respectfully requested.

Examiner Interview

Applicant's undersigned representative would like to thank Examiner Rawlings for a courteous telephonic interview conducted on December 5, 2006. Applicant's representatives (the undersigned and her associate, Anna Solowiej) inquired into the details of the present enablement rejection. The Examiner indicated that the rejection can be overcome by complying with the deposit requirements for the hybridomas, and amending the claims to recite antibodies produced by the disclosed hybridomas deposited under their specific ATCC deposit numbers.

Objections to the Drawings

The Examiner objects to Figures 8 and 11, stating at page 2 of the Office Action that:

the figures depict amino acid sequences, which are not identified by sequence identification numbers, either in the figures or in the brief descriptions of figures at pages 12 and 13 of the specification, respectively.

The Examiner further states that:

this ground of objection would be withdrawn, so that a replacement drawing would not be required, if Applicant were to amend the brief description of the figure at page 4 of the specification to include sequence identification numbers (at page 2).

Brief descriptions of Figures 8 and 11 at pages 12 and 13 have been amended according to the Examiner's suggestion. To obtain a clear record, Applicant takes the reference to page 4 in the above quote as a typographical error, as page 4 does not contain descriptions of the drawings. Sequences depicted in Figures 8 and 11 have been filed in a previously-submitted sequence listing (transferred to the present application from a parent). Description of Figure 8 is being amended to include SEQ ID NO: 8 and SEQ ID NO:20 from the sequence listing. Description of Figure 11 is being amended to include SEQ ID NO:16 and SEQ ID NO:21 from the sequence listing. Withdrawal of objections to the drawings is respectfully requested.

Objections to the Specification

The Examiner objects to the specification because "the sequences depicted in Figures 8 and 11 are not identified by sequence identification numbers, either in the figures or in the brief descriptions of figures at pages 12 and 13 of the specification, respectively" (at page 3). As discussed above, the specification has been amended accordingly. Withdrawal of objections to the specification is respectfully requested.

To obtain a clear record, Applicant notes that the Examiner cites a Notice to Comply in this section (at page 3). Applicant has not received said notice with the Office Action.

Rejections under 35 U.S.C. § 112, First Paragraph

The Examiner rejects claims 144, 156-168, and 170-210 as allegedly lacking enablement, stating at page 6 that

[i]f the deposit requirements *were* satisfied, the disclosure would only be sufficient to make the monoclonal antibodies J591, J533, E99, and J415, which are produced by hybridomas deposited under ATCC deposit accession numbers HB-12126, HB-12127, HB-12101, and HB-12109, respectively (at page 6; emphasis in the original).

To satisfy the deposit requirement, Applicant submits herewith a Declaration of Availability by the undersigned attorney of record, stating that the deposits of the four hybridomas cited above have been made under the Budapest Treaty and that all restrictions upon public access to the deposits will be irrevocably removed upon grant of a patent on this application and the deposit will be replaced if viable samples cannot be dispensed by the repository.

As discussed during the Examiner Interview, claims 144, 159, 172, 178, 180, 184-187, 192-195, 200-203, 206, 207, 209, and 210 have been amended to recite monoclonal antibodies produced by hybridomas deposited under specific ATCC deposit accession numbers. Withdrawal of all enablement rejections is respectfully requested.

Rejections for Double Patenting

The Examiner rejects claims 144, 156-168, 170-178, and 180-210 as allegedly being unpatentable over claims 1-142 of U.S. Pat. No. 7,045,605 B2 under the doctrine of nonstatutory obviousness-type double patenting (at pages 8-10). Without conceding the issue, Applicant submits herewith a Terminal Disclaimer to overcome the rejections.

The Examiner also rejects claims 144, 156-168, 170-177, 180, 184-203, and 208-210 as allegedly being unpatentable over claims 21 and 52-137 of copending Application No. 10/379,838 (at pages 10-12). Without conceding in the rejections, Applicant submits herewith a Terminal Disclaimer to overcome these rejections.

Withdrawal of all double patenting rejections is respectfully requested.

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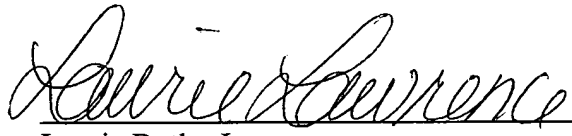
Conclusion

Applicant respectfully submits that all claims are in condition for allowance, which action is expeditiously requested. Applicant does not concede any positions of the Examiner that are not expressly addressed above, nor does Applicant concede that there are not other good reasons for patentability of the presented claims or other claims. All amendments and withdrawals are made without prejudice and disclaimer and may be made for reasons not explicitly stated or for reasons in addition to ones stated.

Enclosed is a Petition for a Three-Month Extension of Time and a check for the required fee. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney's Docket Number 21052-003009.

Respectfully submitted,

Date: 2/2/07


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